

# Interim News Briefs



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## Licensing and Regulation

### Several states moving to ban powdered alcohol

*February 19* — Several states have enacted prohibitions on the sale of alcohol in powdered form since the Texas Legislature considered, but did not approve, a ban on the product in 2015. By the end of 2015, 27 states had banned powdered alcohol, up from four at the end of 2014, according to the [National Conference of State Legislatures](#). Powdered alcohol can be added to water to make alcoholic beverages, such as vodka or rum, and mixed drinks such as a margarita or mojito. The Texas Legislature may take the issue up again in 2017.

#### Status in Texas

Alcoholic beverages made from powdered alcohol currently are not sold in Texas. A potential seller of products made from distilled spirits would have to obtain a distiller's and rectifier's permit or a nonresident seller's permit issued by the the Texas Alcoholic Beverage Commission (TABC). Under Alcoholic Beverage Code, [sec. 101.671](#), the TABC must approve a product for sale if a holder of such a permit also has a federal certificate of approval for a product's label and registers the product with the TABC. The TABC may not require additional approval unless the product or label is changed in a way that also requires additional federal approval.

In March 2015, the U.S. Alcohol and Tobacco Tax and Trade Bureau approved labels for a powdered alcohol product called Palcohol. As of late January 2016, the makers of Palcohol did not have the necessary permit to sell in Texas and had not applied to register the label for approval with the TABC. The company's website reports that it does not yet have products for sale and will not be selling any until the summer of 2016, at the earliest.

At least one Texas company is working to gain the necessary state and federal approval to sell powdered alcohol cocktails and

has said it expects to obtain approval and begin selling in 2016. The products being discussed for the Texas market would have to be sold in liquor stores under the same rules as other distilled spirits. Because they would be powdered and not sold by gallons, one way to assess the \$2.40 per gallon tax would be to base it on the amount of alcoholic beverage that could be made, as indicated on the package.

**Status in other states.** While 27 states now have explicit bans on powdered alcohol, others have included powdered alcohol in current definitions of alcohol so that it can be regulated under existing laws. Bans in Maryland and Minnesota are temporary, both set to expire in June 2016.

Texas proposal to ban powdered alcohol. Current Texas law does not mention powdered alcohol. Under Alcoholic Beverage Code, [sec. 103.01](#) the possession, manufacture, transportation, or sale of illicit beverages is prohibited. Illicit beverages are defined in [sec. 1.04\(4\)](#). [Sec. 101.65](#) prohibits manufacture, import, sale, or possession for the purpose of selling alcoholic beverages made from certain substances.

Texas considered a ban on powdered alcohol in 2015, but it was not enacted. The 2015 legislation, [HB 1018](#) by Geren, would have made it illegal to manufacture, sell, or possess alcohol in powdered form in Texas by adding it to the list of illicit beverages. The bill also would have added it to the list of substances from which alcoholic beverages may not be made. The bill died on the House floor after being postponed.

**Supporters of banning powdered alcohol** say the products have a high potential for abuse and raise public health concerns, especially for underage drinkers who might be attracted to them. Consumers could abuse powdered alcohol because of its novel

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form by using it to over-consume alcohol or by ingesting it in dangerous ways. Texas should ban powdered alcohol, just as it bans other dangerous substances, supporters of a ban say.

Given its size and portability, powdered alcohol also could be easy to transport and conceal and be taken into places where alcohol is banned or sold on-site. In these situations, it might not be recognized as alcohol. Concerns that a ban could create a black market for a product are not a sufficient reason to allow the sale of a dangerous product, say supporters of a ban, and black market sales could be countered the same way they are with liquid alcohol.

**Opponents of banning powdered alcohol** say it should not be singled out and banned but regulated and taxed like other alcohol products. Concerns about misuse are based on misinformation and speculation, opponents of a ban say, and

the state should see if problems arise before considering a ban. Texas consumers should have the same freedom to consume powdered alcohol that they do to consume liquid alcohol. Banning powdered alcohol also could make a non-ingestible form unavailable for potential uses in industry, such as making fuel. Opponents of a ban say that given its bulky form, powdered alcohol would not be significantly easier than liquid alcohol to transport or conceal.

Powdered alcohol would be sold with the same oversight, regulations, and restrictions as liquid alcohol. In Texas, it could be sold only where alcoholic beverages could be sold and only to those at least 21 years old. Potential concerns about underage drinkers could be handled through regulation, enforcement, and education, just as with liquid alcohol, opponents of a ban say.

— by Kellie A. Dworaczyk

#### *Criminal Justice*

## States consider limits on use of solitary confinement

February 19 — Debate about the use of solitary confinement in prisons has prompted states to examine their policies, with several making changes in recent years. Some have limited the use of solitary confinement or have modified living conditions in solitary confinement housing. The federal government also recently adopted changes to its policies on solitary confinement and has barred its use for juvenile inmates. Discussion of such proposals has centered on cost, safety in prisons and the community, and whether solitary confinement is implemented in ways that violate constitutional bans on cruel

and unusual punishment. The issue is part of broader interim studies being conducted by Texas House and Senate criminal justice committees for the 85th legislative session in 2017, and lawmakers may discuss similar policies during next year's regular legislative session.

For more on these issues, related legislation, and Texas' use of solitary confinement, see the recent House Research Organization article, [States Examine Policies, Conditions for Solitary Confinement in Prisons](#).

#### *Criminal Justice, Human Services*

## Texas examines mental health issues in county jails

February 19 — In the wake of high-profile jail suicides in Texas in the last year, the Texas House and Senate are studying mental health issues and regulation of county jails this interim. Both chambers have heard proposals that could lead to legislation in the next legislative session. Proposals include preventing individuals with a history of mental illness from entering or re-entering jail, expanding jail inspections to include city jails,

increasing mental health training for jailers, and increasing access to mental health treatment for inmates in county jails.

For more on these issues, related legislation, and Texas jail standards, see the recent House Research Organization article, [Mental Health Issues in Jails Considered](#).